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FURTHER REPORT OF THE SECRETARY-GENERAL ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 598 (1987)

1. In paragraph 6 of resolution 598 (1987), adopted on 20 July 1987, the Security Council requested the Secretary-General to explore, in consultation with Iran and Iraq, the question of entrusting an impartial body with inquiring into responsibility for the conflict and to report to the Security Council as soon as possible in implementation of that request.

2. In the course of the negotiations during the past three years, I have had several opportunities to consult with the parties on paragraph 6. While those consultations enabled me to get a certain understanding of the divergent views held by both sides, they did not come to a stage where it was felt possible to submit a meaningful report to the Security Council.

3. Following the completion of the implementation of paragraphs 1 and 2 of resolution 598 (1987), a renewed effort to fulfil the requirements of all other provisions of that resolution was called for in order to ensure the re-establishment of peace between Iran and Iraq in accordance with the comprehensive peace plan provided for by resolution 598 (1987) and thus to contribute substantially to the current requirements of peace and security in the region. Many of the steps I took in order to intensify all efforts in implementation of resolution 598 (1987) have been outlined in my report to the Security Council on that subject (S/23246).

4. For the purpose of paragraph 6, although elements of the positions of the two parties on that paragraph were known to me, I requested the Governments of Iran and Iraq, in identical letters dated 14 August 1991, to provide me in the most comprehensive manner possible with their detailed views on the subject-matter of that paragraph. At the same time, in order to obtain the fullest understanding of the subject-matter, I decided to consult separately some independent experts. On the basis of the replies provided by the parties dated 26 August 1991 for Iraq and 15 September 1991 for Iran, the consultations held with the parties in the past, all relevant information contained in the official documents of the United Nations since the beginning of the conflict and the information obtained from independent experts, I would

now like, in the light of paragraph 6 of Security Council resolution 598 (1987), to report to the Security Council.

5. It is evident that the war between Iran and Iraq, which was going to be waged for so many years, was started in contravention of international law, and violations of international law give rise to responsibility for the conflict, which question is at the centre of paragraph 6. The area of violation of international law that should be of specific concern to the international community in the context of paragraph 6 is the illegal use of force and the disregard for the territorial integrity of a Member State.

There were of course in the course of the conflict massive violations of various rules of international humanitarian law.

6. The Iraqi reply to my letter of 14 August 1991 is not a substantial one; therefore I am bound to rely on explanations given by Iraq earlier. That these explanations do not appear sufficient or acceptable to the international community is a fact. Accordingly, the outstanding event under the violations referred to in paragraph 5 above is the attack of 22 September 1980 against Iran, which cannot be justified under the Charter of the United Nations, any recognized rules and principles of international law or any principles of international morality and entails the responsibility for the conflict.

7. Even if before the outbreak of the conflict there had been some encroachment by Iran on Iraqi territory, such encroachment did not justify Iraq's aggression against Iran - which was followed by Iraq's continuous occupation of Iranian territory during the conflict - in violation of the prohibition of the use of force, which is regarded as one of the rules of jus cogens.

8. Of the numerous violations of humanitarian law which were committed during the Iran-Iraq war, many have already been documented by the United Nations and by the International Committee of the Red Cross. At the request of one or both of the parties I have for instance on several occasions dispatched expert missions to the theatre of war to investigate such violations as the use of chemical weapons, attacks on civilian areas and the bad treatment of prisoners of war. The results of those investigations were all reported to the Security Council and issued as Security Council documents. They referred, sadly enough, to the existence of evidence that serious violations of humanitarian law had indeed taken place. On one occasion I had to note with deep regret the experts' conclusion that "chemical weapons ha[d] been used against Iranian civilians in an area adjacent to an urban centre lacking any protection against that kind of attack" (S/20134, annex). The Council expressed its dismay on the matter and its condemnation in resolution 620 (1988), adopted on 26 August 1988.

9. The events of the Iran-Iraq war, which for many years provided the news headlines in the world media, are well known to the international community. The position of the parties, expressed on many occasions in official documents, are also public knowledge. In my opinion it would not seem to

serve any useful purpose to pursue paragraph 6 of resolution 598 (1987). In the interest of peace and in line with the implementation of resolution 598 (1987) as a comprehensive peace plan, it is now imperative to move on with the settlement process. It is the careful construction of peaceful relations between the parties and of peace and security in the whole region that urgently needs to be tended to. The Security Council, in 1987, already offered the right approach, including in paragraph 8 of that resolution, which, if it had been timely implemented, might have spared the region from the further tragedy that followed. A system of good-neighbourly relations based on the respect of international law, as was envisaged by the Security Council, is essential in securing peace and stability in the region in the future. It is to be hoped that the Council's call will be heeded.